

1                   A     It was about five o'clock this morning.

2                   Q     About five o'clock this morning. And how --

3                   A     One tablet.

4                   Q     One tablet every how many hours can you take

5 it?

6                   A     You can take it, he said, every three to four

7 hours. I only take it unless, if I start hurting a lot.

8                   Q     Okay. How does, how does the medicine make you

9 feel?

10                  A     It doesn't seem to bother me, except it does

11 ease the pain.

12                  Q     Okay. Let me just tell you, do whatever you

13 need to do to be comfortable. I know sometimes standing up

14 makes people more comfortable, leaning back makes people more

15 comfortable, lying down makes people feel, if you want to lie

16 down on the floor, feel free to lie down on the floor, I don't

17 care. And if you want to, you know, if you want to stand in

18 the corner on your, you know, on your hands with your back up

19 against the wall, that's fine too.

20                  A     Well, I'll try not to do that.

21                  Q     Anything you want to do to make yourself

22 comfortable --

23                  A     All right. Thank you.

24                  Q     -- go ahead and do. And also, very important,

25 if you think you need to take a break, you need some relief,

1 don't be shy, just ask and we'll take a break.

2 A All right, thank you.

3 Q Okay?

4 A Thank you. Yes.

5 DIRECT EXAMINATION

6 BY MS. SCHMELTZER:

7 Q Ms. Zika, you have in front of you a copy of  
8 Church, of -- marked for identification, Your Honor, what we  
9 have labelled as Church Exhibit 3, the testimony of  
10 Paula Zika. It's a five-page statement with a signed  
11 declaration attached, and there is one attachment appended to  
12 it.

13 JUDGE STEINBERG: The document described will be  
14 marked as Church Exhibit Number 3.

15 (Whereupon, the document referred to  
16 as Church Exhibit No. 3 was marked  
17 for identification.)

18 BY MS. SCHMELTZER:

19 Q Ms. Zika, do you have a copy of Church Exhibit  
20 3 in front of you?

21 A Yes, I do.

22 Q Do you have any changes or corrections to your  
23 testimony?

24 A No, I do not.

25 Q Is your testimony true and correct to the best

1 of your knowledge, information, and belief?

2 A Yes, it is. Yes.

3 MS. SCHMELTZER: Your Honor, I would move the  
4 receipt of Church Exhibit 3.

5 JUDGE STEINBERG: Mr. Honig?

6 MR. HONIG: Your Honor, I have one objection. On  
7 page five, paragraph ten, I object to the, to the first  
8 sentence, and if your, if my objection is sustained it may be  
9 necessary to rewrite the second sentence to make the context  
10 of it clear if the first sentence isn't there. The, the  
11 sentence states: I never intended to deceive the Commission  
12 in any way considering the matter of job hires at the station.  
13 Your Honor, that's neither a matter on which it's possible to  
14 derive findings from, nor it is really possible to  
15 cross-examine a person by, on, on their own statement of their  
16 own intention, unlike a statement of opinion concerning  
17 another person, there may be some source that you can go to,  
18 but this is a person's statement about her, her own  
19 intentions. I don't think it's competent direct testimony and  
20 I would ask that it be stricken.

21 MS. SCHMELTZER: Your Honor, first of al, I think  
22 it's certainly possible to -- somebody based on, to  
23 cross-examine somebody based on their intentions, so I think  
24 it's very easy for the NAACP to cross-examine Ms. Zika. But  
25 even more importantly, the NAACP had the option of deposing

1 Ms. Zika and cross-examining her or examining her at a  
2 deposition and Mr. Honig stated he wasn't interested in  
3 deposing Ms. Zika because he didn't think was anything to  
4 misrepresentation -- so I don't see that he's got any basis  
5 for striking that sentence at all.

6 MR. HONIG: Judge, I have, I object to --

7 JUDGE STEINBERG: Wait --

8 MR. HONIG: -- one statement that was just made and  
9 would ask that it be stricken.

10 JUDGE STEINBERG: I don't know, because that's  
11 argument, counsel --

12 MR. HONIG: (Inaudible).

13 JUDGE STEINBERG: -- and I'm not going to give  
14 weight to it, whether you, what you told her you thought, I  
15 don't care.

16 MR. HONIG: Okay,

17 JUDGE STEINBERG: Okay? I'm not going to, it's,  
18 believe me, it's going to be used against you. When I have to  
19 write findings and a conclusion on the misrepresentation  
20 issue, the statement that Ms. Schmeltzer made will bear no  
21 weight at all.

22 MR. HONIG: Okay.

23 JUDGE STEINBERG: Okay?

24 MR. ZAUNER: The Bureau has no objection to that --  
25 we, we believe that the examination will either bear out the

1 truth of it or not, as the case may be.

2 JUDGE STEINBERG: I agree with the Bureau and the  
3 objection is overruled. I've seen statements like this in  
4 virtually every exhibit, in every basic issue that I've ever  
5 had, and it, it does no harm to have it in there, and if the  
6 circumstances and the, and the facts that are elicited show  
7 that there is deception or a misrepresentation, then this  
8 sentence isn't going to be worth, you know, worth, I just  
9 don't think it matters one way or the other and I'll leave it  
10 in. It's her opinion. She, and you can, you can certainly  
11 cross-examine on that, if I let you cross-examine. That's  
12 another matter we have to get to. Any other objection?

13 MR. HONIG: I understand your ruling and I have no  
14 other objections.

15 JUDGE STEINBERG: Mr. Zauner, Ms. Laden, any  
16 objection?

17 MR. ZAUNER: No, Your Honor.

18 JUDGE STEINBERG: Okay. Your exhibit,  
19 Church Exhibit 3 is received.

20 (Whereupon, the document marked as  
21 Church Exhibit No. 3 was received  
22 into evidence.)

23 JUDGE STEINBERG: Now we have to, another, the  
24 Bureau noticed Ms. Zika for cross-examination and so did  
25 Mr. Honig. On June 14th, 1994, the Church filed a partial

1 objection to witness notification of NAACP The Church  
2 objected to the notification of Reed Miller for  
3 cross-examination. However, it is my understanding that  
4 Mr. Honig, in a conference call with, which I was a party to,  
5 has withdrawn his request for Mr. Miller. Is that correct?

6 MR. HONIG: That, that is correct.

7 JUDGE STEINBERG: Okay. So that objection is moot.  
8 The next objection was the NAACP noticed Ms. Zika for  
9 cross-examination and the Church is objecting because Ms. Zika  
10 was not deposed by Mr. Honig. That objection is overruled. I  
11 will allow Mr. Honig to cross-examine Ms. Zika. The basis for  
12 the ruling is the mere fact that someone has not choosen,  
13 choosen, chosen to depose someone or, or the fact that a party  
14 has not participated in a, in a deposition constitutes no  
15 grounds for restricting cross-examination rights. The witness  
16 has been offered and may be cross-examined by anybody upon  
17 proper notice, regardless of whether or not that party  
18 participated in a deposition. And I will issue a very, very  
19 brief ruling basically saying for the reasons stated on the  
20 record, the partial objection to, is, is overruled or denied  
21 or whatever. Okay. Mr. Honig?

22 MR. HONIG: Yes.

23 CROSS EXAMINATION

24 BY MR. HONIG:

25 Q Ms. Zika, good morning.

1 A Good morning.

2 Q Can you hear me okay?

3 A If you speak up. I do, I am hard of hearing.

4 Q Okay.

5 JUDGE STEINBERG: If you don't understand something,  
6 don't, again, don't be shy.

7 WITNESS: All right.

8 JUDGE STEINBERG: Tell him to say it again.

9 BY MR. HONIG:

10 Q Ms. Zika, would you please turn to page one of  
11 your written testimony.

12 A Page one?

13 Q Yes. There in paragraph two, you state: over  
14 the years my responsibilities have included handling  
15 administrative and business matters for the stations,  
16 including personnel matters. Ms. Zika, did that  
17 responsibility include interviewing candidates for employment?

18 A No, it did not.

19 Q Did you supervise anyone whose job it was to  
20 interview candidates for employment?

21 A Did I supervise?

22 Q Yes.

23 A No, I did not.

24 Q Was it your, can you tell me whether it was  
25 part of your responsibilities to conduct tests of a person's

1 qualifications, for example, a typing test?

2 A No. It, it involved only record-keeping.

3 Q Whose responsibility was it to, to interview  
4 and hire secretaries, receptionists, and janitors?

5 MS. SCHMELTZER: Objection. Your Honor, this is far  
6 beyond the scope of Ms. Zika's direct testimony. It's the  
7 type of question that Mr. Honig could have asked in the  
8 deposition had he chosen to participate. It's totally  
9 irrelevant.

10 JUDGE STEINBERG: Well, I, I, do you join or not, or  
11 you don't care?

12 MR. HONIG: Your Honor, although I think technically  
13 this is included in the scope of her direct testimony, I'm not  
14 going to rely on the fact that technically it does conform.  
15 I, I'll, I'll tell you that I'm asking the question to lay a  
16 foundation for the, the important policy matter which I  
17 described when the witness wasn't here, and urge that it be  
18 allowed subject to a later motion to strike after we hear all  
19 the testimony, to preserve the question that I raised when the  
20 witness wasn't here.

21 JUDGE STEINBERG: It seems to me that with respect  
22 to the matter that we discussed before Ms. Zika came into the  
23 room, and I'm obviously not going to get into detail on that,  
24 that she wasn't responsible for that, and the question as to  
25 do you know who was responsible for that is discovery and not

1 cross-examination, and I'm going to sustain the objection.

2 MR. HONIG: Your Honor --

3 JUDGE STEINBERG: Where in her direct, point to a  
4 sentence in her direct testimony that would allow that  
5 question, and, and I think, I think the question was do you  
6 know whose responsibility it was, was it to interview people?  
7 Where, where is that in here, in her direct testimony?

8 MR. HONIG: Well, and again, Your Honor, inasmuch as  
9 she talks about how she knew how many people were hired, for  
10 which jobs, which is the basis --

11 JUDGE STEINBERG: So ask her how she knew. What's  
12 that have to do with who interviewed them?

13 MR. HONIG: It, it, I'll, I'll do it, but will tell  
14 you that it's an, it, it's an unsatisfying way to the same  
15 result.

16 JUDGE STEINBERG: Well --

17 MR. HONIG: Because there is a way to do it within  
18 the, within the scope of this declaration, I just feel --

19 JUDGE STEINBERG: So, so then do it.

20 MR. HONIG: -- I just feel unclean doing it that  
21 way, because that's not where I'm going, to be honest with  
22 you. I mean I, if that's what I need to do to get it out,  
23 I'll, I'll do it that way.

24 JUDGE STEINBERG: go on.

25 MR. HONIG: Okay.

1 BY MR. HONIG:

2 Q Ms. Zika, your declaration speaks, does it not,  
3 to how you came to be apprised of who was, how many people the  
4 station hired by race and sex over a time, isn't that right?

5 A I'm sorry, I didn't understand your question.

6 Q I'm sorry, let me state it again. Your  
7 declaration speaks to how you came to know who the statio  
8 hired by race and sex, isn't that correct?

9 A Um-hum, yes.

10 Q And what was the, what were the sources of your  
11 information on who the station hired by race and sex?

12 A The files, the personnel file on each person.

13 Q Did you, did any individual who did hiring, who  
14 actually hired or interviewed people provide you with  
15 information on who was hired?

16 A Yes, they would bring the papers to put into  
17 the file.

18 Q But you never had a, your testimony is you  
19 never had a conversation with any person about that they hired  
20 an individual, interviewed a person?

21 JUDGE STEINBERG: That wasn't her testimony.

22 MR. HONIG: I, I'm just trying to understand.

23 JUDGE STEINBERG: Okay. Ask, instead of, ask the  
24 question did you ever have a conversation with.

25 MR. HONIG: Okay. I'm sorry, Your Honor.

1 JUDGE STEINBERG: That's all, don't, I mean that  
2 wasn't her testimony, so don't --

3 MR. HONIG: Did you ever have a conversation with a  
4 person about that person's interviewing or hiring and  
5 employed?

6 MS. SCHMELTZER: I would object in the sense it's  
7 extremely vague. We're talking about a seven-year period. I  
8 don't, I don't know who, with what, whether we're talking  
9 about any specific individual. I just think it's terribly  
10 vague.

11 JUDGE STEINBERG: Okay. So far we've got that  
12 Ms. Zika, and I want you to correct me if I'm wrong, don't be  
13 shy again, you know, if I say something that's not right, you,  
14 you jump all over me, I mean not literally, but, you know,  
15 that would be disrespectful and I'm sure you wouldn't want to  
16 -- but so far we've got in the record that you got the  
17 information in terms of race and sex through the personnel  
18 records. What Mr. Honig was asking, and again, Mr. Honig, you  
19 can correct me if I'm wrong, what Mr. Honig is asking was how  
20 did that stuff get into the personnel records. Is that right?

21 MR. HONIG: That's right.

22 JUDGE STEINBERG: Okay. Can you tell us how that  
23 stuff, how, how whatever was in the personal, personnel  
24 records got in there.

25 WITNESS: It was given to me to file by the general

1 manager as a, as a rule.

2 JUDGE STEINBERG: Okay. Did you hear the answer.

3 MR. HONIG: Okay. Would, would, would that have  
4 included Dennis Stortz?

5 WITNESS: Yes.

6 MR. HONIG: Your Honor, in light of the witness's  
7 testimony, there are only two additional questions I would  
8 like to ask her and I think to do this fairly, I'd like to  
9 state what the questions are first. One question is that I  
10 would like to show the --

11 JUDGE STEINBERG: Why don't you just ask.

12 MR. ZAUNER: Objection. Can't we just ask the  
13 question.

14 JUDGE STEINBERG: Just ask. Just ask the question.

15 MR. HONIG: All right. Well, then I'd like, one of  
16 them is I'll show the witness something and I want to be sure  
17 it's appropriate first.

18 JUDGE STEINBERG: Go on.

19 MR. HONIG: Okay.

20 MS. SCHMELTZER: -- show it --

21 MR. HONIG: I'd like to show the witness --

22 UNIDENTIFIED: -- pornographic?

23 MR. HONIG: I'd like to --

24 JUDGE STEINBERG: No, no. That's, that's  
25 unnecessary. Just go and do it.

1 MR. HONIG: All right.

2 MS. SCHMELTZER: We're entitled to know what you're

3 --

4 MR. HONIG: I'm --

5 JUDGE STEINBERG: I'll tell you when he, when he  
6 says I'm showing the witness this.

7 MR. HONIG: I think I said two. I may have  
8 misspoken, there, there are three.

9 JUDGE STEINBERG: Questions?

10 MR. HONIG: Yes.

11 JUDGE STEINBERG: Okay. I won't hold you to that.

12 MR. HONIG: Thank you. I'm showing the witness --

13 JUDGE STEINBERG: Why don't we, I know what it is,  
14 but let me, let me see it. Okay. We need to identify it  
15 formally --

16 MR. HONIG: Sure.

17 JUDGE STEINBERG: -- because this is not your index.

18 MR. HONIG: That's right.

19 JUDGE STEINBERG: So let's, why don't you do the,  
20 you know, ask that it be marked and, and just that's not in  
21 your index and what I, let me just say what I'm going to do  
22 is, with Mr. Honig's exhibits, at least 1 through 62, is put  
23 his index in as a Judge's exhibit as the identification, just  
24 as we did with the Bureau's, and that way we save a whole lot  
25 of paper -- company doesn't like to hear that, but we save a

1 lot of, we save a whole lot of paper and time, but 63 and 64  
2 are not on the index, so we'll have to go through the, the  
3 whole description process.

4 MR. HONIG: Ms. Zika, I'm placing before you a  
5 document which I'd like identified as NAACP Exhibit 63. It is  
6 15 page of material, all drawn from discovered records which I  
7 believe came from station files, except that on each page of  
8 this exhibit I have placed in brackets the name of the person  
9 to whom each page refers, each page being a job applicant, and  
10 the date that their application associated with that page was  
11 dated.

12 JUDGE STEINBERG: Let's call these for, we'll give  
13 it a name but we won't give it a name that will tell the  
14 witness anything. We'll just call, call it handwritten notes,  
15 how about that. Everybody agree with that?

16 MR. HONIG: Ms. Zika --

17 JUDGE STEINBERG: Wait a sec. Do you want, do you  
18 want that marked for identification?

19 MR. HONIG: Yes, I'd like that marked for  
20 identification.

21 JUDGE STEINBERG: Okay. The 15-page document which  
22 we'll call handwritten notes will be marked for identification  
23 as NAACP Exhibit 63.

24 (Whereupon, the document referred to  
25 as NAACP Exhibit No. 63 was marked

1 for identification.)

2 JUDGE STEINBERG: Okay, why don't you look at that  
3 before the question is asked.

4 MR. HONIG: Ms. Zika, are any of these in your  
5 handwriting?

6 WITNESS: None of them are mine.

7 MS. SCHMELTZER: I'm going to object for the record  
8 that this is immaterial, irrelevant, and it -- discovery type  
9 matter and Mr. Honig could have -- earlier.

10 JUDGE STEINBERG: Well, the answer has already been  
11 given, so I won't rule on the objection.

12 MR. ZAUNER: I didn't hear the individual's --

13 JUDGE STEINBERG: The answer was no. Is that  
14 correct, Ms. Zika?

15 WITNESS: No.

16 JUDGE STEINBERG: That's not correct?

17 MS. LADEN: I'm sorry, ma'am, I didn't hear it  
18 either, maybe you could just say it again.

19 MS. SCHMELTZER: Oh, well, then I object.

20 JUDGE STEINBERG: No, I heard it. I heard it. What  
21 was, your answer, the question was are any of these in your  
22 handwriting.

23 WITNESS: And the answer is no.

24 MR. HONIG: Now is it correct that these documents  
25 were in the station's files that you kept?

1 MS. SCHMELTZER: Objection for the reasons that I've  
2 previously stated.

3 JUDGE STEINBERG: Purpose?

4 MR. HONIG: If they were in the station's files, I  
5 would then like to ask the witness who put them there.

6 MS. SCHMELTZER: We're going into a whole collateral  
7 inquiry which is --

8 JUDGE STEINBERG: Point --

9 MS. SCHMELTZER: -- discovery.

10 JUDGE STEINBERG: Point to where this is relevant.  
11 Point to a sentence in her direct testimony which, which ties  
12 in with this.

13 (End of tape one, start of tape two.)

14 MR. HONIG: Your Honor, I'll, I'll be honest with  
15 you, there isn't, other than the fact that she was in charge  
16 of keeping the files and that, and that I had asked some  
17 questions concerning who, how did she come to get the  
18 materials in the files. They are relevant only insofar as she  
19 kept the files, these were in the files, and I'm trying to  
20 find out where they came from. And, Your Honor, what I would  
21 like to ask is that that apparently is all the witness will  
22 know, if she would answer that question, where they came from,  
23 I will agree that that is the last question I'll ask this  
24 witness about this exhibit.

25 MS. SCHMELTZER: Your Honor, I've heard that before.

1 Unfortunately, Mr. Honig doesn't always --

2 MR. HONIG: Well, that's inappropriate, Your Honor,  
3 and I'd like, well, I wouldn't ask that it be stricken, but  
4 it's inappropriate. I'm going, I'm going to ask, that is my  
5 last question about this exhibit.

6 MS. SCHMELTZER: Well, I still object for reasons  
7 previously cited. And Mr. Honig has admitted that it's  
8 totally beyond the scope of cross-examination.

9 JUDGE STEINBERG: I'll sustain the objection.

10 MR. HONIG: Ms. Zika, Your Honor, believe that I, I  
11 said, so you'll know why I'm asking this next question is, but  
12 these forms were all from 1990 and what the witness did,  
13 related to a time period in 1989, and that's why I couldn't  
14 tell you that this was within the scope of her direct. Let me  
15 ask the witness this. During the time period spoken of in  
16 your declaration, which is the 12-month period in the, covered  
17 in the 1989 license renewal application, were there in your  
18 files any documents of this type?

19 MS. SCHMELTZER: Objection. Beyond the scope of  
20 cross, of direct examination. This -- this whole matter.

21 MR. HONIG: I don't think, I don't think this one  
22 is, Your Honor.

23 JUDGE STEINBERG: First, she speaks of two time  
24 periods in her direct testimony. One is the time period, the  
25 one-year period for the, what the 396, is that what it is?

1 And then there's a three-year time period where the 14 hires  
2 came from, and that's after the Commission inquiry.

3 MS. SCHMELTZER: Whether or not these --

4 JUDGE STEINBERG: Well, what, yes, my question is  
5 what, what does this, point to me where in her direct  
6 testimony a, a question like that is relevant.

7 MR. HONIG: Paragraph five, she states, "During  
8 12-month period beginning October 1, '88, September, 1989, we  
9 hired a total of six persons, two white males and four white  
10 females." The witness has testified that she has knowledge of  
11 the station's files during that time and I'm asking whether  
12 documents in this form appear in the station's files during  
13 that time. I, I think that was covered, Your Honor.

14 MS. SCHMELTZER: Whether or not the interview sheets  
15 were in the file is irrelevant to the matter that's discussed  
16 in Ms. Zika's declaration.

17 JUDGE STEINBERG: I, I don't see where your question  
18 whether or not there were interview sheets in the files during  
19 this one-year period has anything to do with the sentence that  
20 you quoted. If you want to ask her how did you determine  
21 there were six people hired, how did you determine two were  
22 white males and, and four were white females, that's fine.  
23 But, let me just ask you.

24 BY JUDGE STEINBERG:

25 Q Ms. Zika, do you see that sentence that Mr.

1 Honig just read in paragraph five?

2 A Um-hum.

3 Q You do? You have to answer yes or no.

4 A Yes.

5 Q When you determined that there were a total of  
6 six persons hired during that period, two white males and four  
7 white females, what documents or materials did you look at to  
8 make that determination?

9 A Are you asking?

10 Q Yes, I'm asking.

11 A I looked at the, the employment records.

12 Q And specifically what did you look at?

13 Employment records can mean a lot of things.

14 A Well, all the personnel files for that time  
15 period and the reports, the 395 and 396 forms that were sent.

16 Q Was there a personnel, was there a sheet of  
17 paper or something in the personnel file which identified  
18 people by race and by gender?

19 A Yes, there is an information sheet in the file.

20 Q Okay, is that, is that what you looked at to  
21 determine whether they were white or another race, or whether  
22 they were male or female?

23 A Yes.

24 Q Did you look at any, in, in making this  
25 determination, did you look at any, any documents in the

1 personnel file like Exhibit 63 on your desk there?

2 A No.

3 MR. HONIG: The question was did she look at any  
4 documents or --

5 JUDGE STEINBERG: Yes, she, she made the  
6 determination, she explained how she made the determination,  
7 did she look at anything that looked like an interview sheet  
8 and the answer was no. Whether they were there or not.

9 MR. HONIG: Can I ask whether she didn't look  
10 because they weren't there or they were there but she --

11 JUDGE STEINBERG: She didn't look. She didn't look  
12 at them. That's what, that's not what she relied on and  
13 that's what her, her testimony says I did this and I just, I  
14 just, through cross-examination, been able to determine how  
15 she did that.

16 MR. HONIG: All right.

17 JUDGE STEINBERG: And so I think you're, you're  
18 asking the wrong witness or, well, it's not relevant to this  
19 particular individual's direct testimony.

20 MR. HONIG: Give me one moment, Your Honor.

21 JUDGE STEINBERG: Sure.

22 MR. HONIG: -- please.

23 JUDGE STEINBERG: Take as, as much time as you want.

24 MR. HONIG: Well, I think I owe it to my client to  
25 try this --

1 JUDGE STEINBERG: Well, let's, instead of  
2 commenting, I owe it to my client to try it --

3 MR. HONIG: I'm, I'm sorry, Your Honor --

4 JUDGE STEINBERG: -- just do it before that --

5 MR. HONIG: You're right. You're right, Your Honor,  
6 I'm --

7 JUDGE STEINBERG: It, it reflects adversely upon my  
8 rulings, many of which you don't like, but there have been  
9 rulings that you have liked.

10 MR. HONIG: I'm sorry, Your Honor, I didn't mean to  
11 be disrespectful and I'm just a little frustrated. Please  
12 forgive me. I'd like, what I'd like to do is place before the  
13 witness exhibit, NAACP Exhibit 64.

14 JUDGE STEINBERG: Okay. You'll have to describe  
15 that one also --

16 MR. HONIG: Sure.

17 JUDGE STEINBERG: -- because that's not in the  
18 index.

19 MR. HONIG: NAACP Exhibit 64 is a one-page exhibit  
20 consisting of a form from the Missouri State Highway Patrol  
21 concerning a, a Terry Klasek, K L A S E K.

22 JUDGE STEINBERG: Why don't we just call this  
23 request for criminal record check.

24 MR. HONIG: Okay.

25 JUDGE STEINBERG: One page.

1 MR. HONIG: Okay. And it's dated October 26, 1989.

2 JUDGE STEINBERG: Okay. The document described will  
3 be identified as NAACP Exhibit 64.

4 (Whereupon, the document referred to  
5 as NAACP Exhibit No. 64 was marked  
6 for identification.)

7 MR. HONIG: Ms. Klasek, forgive me, Ms. Zika, have  
8 you seen this document before?

9 MS. SCHMELTZER: I'm going to object.

10 JUDGE STEINBERG: Wait.

11 MS. SCHMELTZER: He asked if she saw the document  
12 before. I'm going to object. It's totally irrelevant. My  
13 understanding is this is the criminal record check on a white  
14 person, not a black person. I don't know why Mr. Honig --

15 JUDGE STEINBERG: Well, why don't we ask the  
16 question --

17 MS. SCHMELTZER: He did, he said --

18 JUDGE STEINBERG: Okay.

19 MS. SCHMELTZER: -- have you seen this before and I  
20 objected.

21 JUDGE STEINBERG: I'll overrule that.

22 WITNESS: No.

23 MR. HONIG: Now I'm going to try and ask the same  
24 question that Judge Steinberg asked you a moment ago. In the  
25 course of reviewing the files to determine how many whites or

1 blacks, males or females were hired from October 1, 1988, to  
2 September 30, 1989, did you review documents of this type?

3 MS. SCHMELTZER: Objection. No, there's no  
4 indication that this person was ever hired, and I don't  
5 understand what relevance it is whether or not she did receive  
6 documents of this type.

7 JUDGE STEINBERG: I'll, I'll let her answer.

8 WITNESS: No, I did not.

9 MR. HONIG: Well, then, then, Your Honor, I have no  
10 further questions of this witness and, and frankly, Your  
11 Honor, could I be excused for the duration of this witness's  
12 testimony.

13 JUDGE STEINBERG: Do you want to move 63 and 64  
14 beforehand?

15 MR. HONIG: Your Honor, I wasn't prepared to, I  
16 would, I would like to move them, but I, I don't, I'll be  
17 honest with you, I don't think I've set out a basis for their  
18 admission at this point, but I'd like to reserve the right to  
19 move them at a later time. If you think I've set out such a  
20 --

21 JUDGE STEINBERG: It's up, it's up to you to try  
22 your case the way you see fit, and if you don't want to move  
23 them now, don't move them now.

24 MR. HONIG: I'm just afraid they'd be, I would, if I  
25 were the Judge, I wouldn't admit them now, so I'll, I'll not

1 move them now.

2 JUDGE STEINBERG: Am I surprised? Okay, you, if you  
3 want to be excused, you may be excused.

4 MR. HONIG: I'm, I'm honestly not feeling well. I  
5 think I'd better take a breather.

6 MS. SCHMELTZER: What, what time should we --

7 JUDGE STEINBERG: Okay, let's go off the record.

8 (Brief recess.)

9 JUDGE STEINBERG: Is everybody ready? We're on the  
10 record. Let, let the record reflect that Mr. Honig, he was  
11 excused and is not here now, and he said he'll be back, try to  
12 be back at 1:30. Mr. Zauner?

13 CROSS EXAMINATION

14 BY MR. ZAUNER:

15 Q Good morning, Mrs. Zika.

16 A Morning.

17 Q If at any time during my examination you feel  
18 uncomfortable for any reason, please let me know and we'll be  
19 happy to take a break or accommodate you, do whatever we can.

20 A All right. Thank you.

21 JUDGE STEINBERG: You stole my line.

22 BY MR. ZAUNER:

23 Q Mrs. Zika, how long have you worked for KFUO?  
24 And when I use that term KFUO, I'm referring to both the AM  
25 and the FM stations as a joint group.

A And the FM. Since 1971.

1 Q And what position were you hired for back in  
2 1971?

3 A Originally I was hired as the station  
4 secretary.

5 Q And you have worked continuously for the  
6 station from that, from 1971 to the present?

7 A That's right.

8 Q What is your present title at the station?

9 A Director of Business Affairs.

10 Q And how long have you held that title?

11 A Since the mid '80s, 1980s.

12 Q And what are your responsibilities in that  
13 position?

14 A The, the business affairs of the station and,  
15 and the record-keeping.

16 Q Mrs. Zika, I, I'm going to show you a copy of a  
17 document which is Attachment 16 to Exhibit 4, that's the  
18 Church. I'm going to ask you to look through that document  
19 and ask you if you've ever seen it before.

20 JUDGE STEINBERG: Or any, or part of it?

21 MR. ZAUNER: Or any part of it before.

22 WITNESS: This complete section here?

23 JUDGE STEINBERG: Yes. Just, just skim it through  
24 and tell us when you're ready to answer the question as to  
25 whether or not you've seen any part of that.